



House of Representatives

General Assembly

File No. 449

February Session, 2018

Substitute House Bill No. 5459

House of Representatives, April 12, 2018

The Committee on Government Administration and Elections reported through REP. FOX of the 148th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING ELECTIONS AND REFERENDA.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 9-236 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (a) On the day of any primary, referendum or election, no person
5 shall solicit on behalf of or in opposition to the candidacy of another or
6 himself or on behalf of or in opposition to any question being
7 submitted at the election or referendum, or loiter or peddle or offer
8 any advertising matter, ballot or circular to another person within a
9 radius of seventy-five feet of any outside entrance in use as an entry to
10 any polling place or in any corridor, passageway or other approach
11 leading from any such outside entrance to such polling place or in any
12 room opening upon any such corridor, passageway or approach.
13 Nothing contained in this section shall be construed to prohibit (1)
14 parent-teacher associations or parent-teacher organizations from

15 holding bake sales or other fund-raising activities on the day of any
16 primary, referendum or election in any school used as a polling place,
17 provided such sales or activities shall not be held in the room in which
18 the election booths are located, (2) the registrars of voters from
19 directing the officials at a primary, referendum or election to
20 distribute, within the restricted area, adhesive labels on which are
21 imprinted the words "I Voted Today", [or] (3) members of the public
22 from using a public restroom in the building where any such polling
23 place is located, subject to the restrictions set forth in this subsection,
24 except that in the case of a school, no member of the public may use
25 such restroom pursuant to this subdivision when such school is in
26 session, or (4) the registrars of voters in a primary, election or
27 referendum from jointly permitting nonpartisan activities to be
28 conducted in a room other than the room in which the election booths
29 are located. The registrars may jointly impose such conditions and
30 limitations on such nonpartisan activity as deemed necessary to ensure
31 the orderly process of voting. The moderator shall evict any person
32 who in any way interferes with the orderly process of voting.

33 Sec. 2. Section 9-254 of the general statutes is repealed and the
34 following is substituted in lieu thereof (*Effective from passage*):

35 Each municipal clerk shall, not later than the one hundred eightieth
36 day prior to the day of any regular municipal election, file with the
37 Secretary of the State, on a form approved by said Secretary, a list of
38 the offices to be filled at such election and the terms thereof and the
39 number of candidates for which each elector may vote. Said Secretary
40 shall, [within] not later than seventy days [from] after the date of
41 receipt of such list, return a copy of such list to the municipal clerk.
42 Each municipal clerk shall, not later than ten days after the receipt of
43 the returned list, mail a copy thereof to the chairman of the town
44 committee of each major political party within the municipality.

45 Sec. 3. Section 9-310 of the general statutes is repealed and the
46 following is substituted in lieu thereof (*Effective from passage*):

47 As soon as the count is completed and the moderator's return

48 required under the provisions of section 9-259 has been executed, the
49 moderator shall place the sealed tabulator in the tabulator bag, and so
50 seal the bag, and the tabulator shall remain so sealed against voting or
51 being tampered with for a period of fourteen days, except as provided
52 in section 9-309 or 9-311 or pursuant to an order issued by the State
53 Elections Enforcement Commission. If it is determined that a recanvass
54 is required pursuant to section 9-311 or 9-311a, immediately upon such
55 determination the tabulators, write-in ballots, absentee ballots,
56 moderators' returns and all other notes, worksheets or written
57 materials used at the election shall be impounded at the direction of
58 the Secretary of the State. Such package shall be preserved for one
59 hundred eighty days after such election and may be opened and its
60 contents examined in accordance with section 9-311 or upon an order
61 of a court of competent jurisdiction. At the end of one hundred eighty
62 days, unless otherwise ordered by the court, such package and its
63 contents may be destroyed. Except as provided in section 9-309 for
64 moderators temporarily interrupting a canvass, any person who
65 unlocks the voting or operating mechanism of the tabulator or the
66 counting compartment after it has been locked as above directed or
67 breaks or destroys or tampers with the seal after it has been affixed as
68 above directed or changes the indication of the counters on any voting
69 tabulator [within] earlier than fourteen days after the election or within
70 any longer period during which the tabulator is kept locked as ordered
71 by a court of competent jurisdiction or by the State Elections
72 Enforcement Commission in any special case, except as provided in
73 section 9-311, shall be imprisoned for not more than five years. Any
74 tabulator may be released in less than fourteen days, for use in another
75 election, by order of a court, if there is no disagreement as to the
76 returns from such machine and no order directing impoundment has
77 been issued by the State Elections Enforcement Commission.

78 Sec. 4. Section 9-316 of the general statutes is repealed and the
79 following is substituted in lieu thereof (*Effective from passage*):

80 The Treasurer, Secretary of the State and Comptroller shall, [within]
81 not later than thirty days after a vacancy election for a senator in

82 Congress or representative in Congress, subject to the provisions of
83 section 9-323, publicly count the votes returned, and declare what
84 person is elected, and the Secretary of the State shall forthwith notify
85 him by mail of his election. The Secretary of the State shall enter the
86 returns in tabular form in books kept by him for that purpose and
87 present a copy of the same, with the name of, and the total number of
88 votes received by, each of the candidates for said office, to the
89 Governor [within] not later than ten days thereafter.

90 Sec. 5. Section 9-318 of the general statutes is repealed and the
91 following is substituted in lieu thereof (*Effective from passage*):

92 The votes for Governor, Lieutenant Governor, Secretary of the State,
93 Treasurer, Comptroller and Attorney General shall be canvassed by
94 the persons authorized to receive and count the same, [within] not
95 later than thirty days [next] after they were cast, unless a complaint
96 under the provisions of section 9-324 is pending, in which case such
97 canvass shall not be made until after the third Monday of December
98 next after they were cast. In making such canvass, the votes upon the
99 returns made by presiding officers shall be counted in conformity to
100 the decision of the judge of the Superior Court or of the Supreme
101 Court, as the case may be, and such canvass shall be in conformity to
102 such decision, and a fair list of such votes made to conform to the
103 original returns of the presiding officers, as corrected or affected by the
104 finding or decision of such judge, with the original returns of the
105 presiding officers and certified copies of the decision of such judge,
106 shall, on the first day of the session, be laid before the General
107 Assembly, which shall declare who are elected to said offices
108 respectively.

109 Sec. 6. Section 9-319 of the general statutes is repealed and the
110 following is substituted in lieu thereof (*Effective from passage*):

111 The votes for state senators, state representatives and judges of
112 probate, as returned by the moderators, shall be canvassed, during the
113 month in which they are cast, by the Treasurer, Secretary of the State
114 and Comptroller, and they shall declare, except in case of a tie vote,

115 who is elected senator in each senatorial district, representative in each
116 assembly district and judge of probate in each probate district. The
117 Secretary of the State shall, [within] not later than three days after such
118 declaration, give notice by mail to each person chosen state senator,
119 state representative or judge of probate of his election.

120 Sec. 7. Subsection (a) of section 9-320 of the general statutes is
121 repealed and the following is substituted in lieu thereof (*Effective from*
122 *passage*):

123 (a) The clerk of each municipality shall, [within] not later than ten
124 days after the municipal election, return to the Secretary of the State a
125 statement of the name, post-office address and term of each person
126 elected to office in such election. If an elected town clerk is registrar of
127 vital statistics, ex officio, such return shall so indicate. Each municipal
128 clerk neglecting to make such return shall be fined not more than
129 twenty-five dollars.

130 Sec. 8. Section 9-325 of the general statutes is repealed and the
131 following is substituted in lieu thereof (*Effective from passage*):

132 If, upon any such hearing by a judge of the Superior Court, any
133 question of law is raised which any party to the complaint claims
134 should be reviewed by the Supreme Court, such judge, instead of filing
135 the certificate of his finding or decision with the Secretary of the State,
136 shall transmit the same, including therein such questions of law,
137 together with a proper finding of facts, to the Chief Justice of the
138 Supreme Court, who shall thereupon call a special session of said court
139 for the purpose of an immediate hearing upon the questions of law so
140 certified. A copy of the finding and decision so certified by the judge of
141 the Superior Court, together with the decision of the Supreme Court,
142 on the questions of law therein certified, shall be attested by the clerk
143 of the Supreme Court, and by him transmitted to the Secretary of the
144 State forthwith. The finding and decision of the judge of the Superior
145 Court, together with the decision of the Supreme Court on the
146 questions of law thus certified, shall be final and conclusive upon all
147 questions relating to errors in the rulings of the election officials and to

148 the correctness of such count and shall operate to correct the returns of
149 the moderators or presiding officers so as to conform to such decision
150 of said court. Nothing in this section shall be considered as prohibiting
151 an appeal to the Supreme Court from a final judgment of the Superior
152 Court. The judges of the Supreme Court may establish rules of
153 procedure for the speedy and inexpensive hearing of such appeals
154 [within] not later than fifteen days [of] after such judgment of a judge
155 of the Superior Court.

156 Sec. 9. Subsection (a) of section 9-369c of the general statutes is
157 repealed and the following is substituted in lieu thereof (*Effective from*
158 *passage*):

159 (a) Whenever a referendum, as defined in subdivision (2) or (3) of
160 subsection (n) of section 9-1, is to be held on any question or proposal,
161 the question or proposal shall be submitted to the municipal clerk in
162 the form in which it will appear on the ballot at least three weeks prior
163 to the date on which the referendum is to be held, and the municipal
164 clerk shall make absentee ballots available for use at the referendum in
165 accordance with the provisions of this section, provided, if any other
166 provision of the general statutes, a special act, a charter provision or an
167 ordinance specifically authorizes a referendum to be held with less
168 than three weeks' notice, absentee ballots shall be made available for
169 each such referendum [within] not later than four business days after
170 the question or questions which are to be voted on at the referendum
171 are finalized. Notwithstanding any provision of the general statutes to
172 the contrary, a municipal clerk may only provide an absentee ballot for
173 such referendum held with less than three weeks' notice to a person
174 who applies in person at the office of the municipal clerk for an
175 absentee ballot (1) for himself or (2) for a prospective applicant who
176 designates such person for such purpose. The designee may be a
177 licensed physician, registered or practical nurse or any other person
178 who is caring for the applicant because of the applicant's illness, a
179 member of the applicant's family or a police officer, registrar of voters
180 or deputy registrar of voters in the municipality in which the applicant
181 resides. The designee may also return the ballot in person to the

182 municipal clerk not later than the close of the polls.

183 Sec. 10. Section 9-371 of the general statutes is repealed and the
184 following is substituted in lieu thereof (*Effective from passage*):

185 Whenever any town, city or borough has conducted a referendum
186 in accordance with the provisions of any special act, or on the question
187 of the acceptance of such act, or on the question of the adoption of any
188 home rule charter or charter revision or amendment thereto, the clerk
189 of such municipality shall, [within] not later than fifteen days after
190 such referendum, notify the Secretary of the State, in writing, of the
191 result of such referendum.

192 Sec. 11. Section 9-371b of the general statutes is repealed and the
193 following is substituted in lieu thereof (*Effective from passage*):

194 Any person (1) claiming to have been aggrieved by any ruling of
195 any election official in connection with a referendum, (2) claiming that
196 there has been a mistake in the count of votes cast for a referendum, or
197 (3) claiming to be aggrieved by a violation of any provision of section
198 9-355, 9-357 to 9-361, inclusive, 9-364, 9-364a or 9-365 in the casting of
199 absentee ballots at a referendum, may bring a complaint to any judge
200 of the Superior Court for relief from such ruling, mistake or violation.
201 In any action brought pursuant to the provisions of this section, the
202 complainant shall send a copy of the complaint by first class mail, or
203 deliver a copy of the complaint by hand, to the State Elections
204 Enforcement Commission. If such complaint is made prior to such
205 referendum, such judge shall proceed expeditiously to render
206 judgment on the complaint and shall cause notice of the hearing to be
207 given to the Secretary of the State and the State Elections Enforcement
208 Commission. If such complaint is made subsequent to such
209 referendum, it shall be brought [within] not later than thirty days after
210 such referendum to any judge of the Superior Court, in which the
211 person shall set out the claimed errors of the election official, the
212 claimed errors in the count or the claimed violations of said sections.
213 Such judge shall forthwith order a hearing to be held upon such
214 complaint, upon a day not more than five or less than three days from

215 the making of such order, and shall cause notice of not less than three
 216 or more than five days to be given to any person who may be affected
 217 by the decision upon such hearing, to such election official, the
 218 Secretary of the State, the State Elections Enforcement Commission and
 219 to any other party or parties whom such judge deems proper parties to
 220 the hearing, of the time and place for the hearing upon such complaint.
 221 Such judge shall, on the day fixed for such hearing and without
 222 unnecessary delay, proceed to hear the parties. If sufficient reason is
 223 shown, such judge may order any voting tabulators to be unlocked or
 224 any ballot boxes to be opened and a recount of the votes cast, including
 225 absentee ballots, to be made. Such judge shall, if such judge finds any
 226 error in the rulings of the election official or any mistake in the count
 227 of the votes, certify the result of such judge's finding or decision to the
 228 Secretary of the State before the tenth day succeeding the conclusion of
 229 the hearing. Such judge may order a new referendum or a change in
 230 the existing referendum schedule. Such certificate of such judge's
 231 finding or decision shall be final and conclusive upon all questions
 232 relating to errors in the ruling of such election officials, to the
 233 correctness of such count, and, for the purposes of this section only,
 234 such claimed violations, and shall operate to correct the returns of the
 235 moderators or presiding officers, so as to conform to such finding or
 236 decision, except that this section shall not affect the right of appeal to
 237 the Supreme Court and it shall not prevent such judge from reserving
 238 such questions of law for the advice of the Supreme Court as provided
 239 in section 9-325, as amended by this act. Such judge may, if necessary,
 240 issue a writ of mandamus, requiring the adverse party and those
 241 under such judge to deliver to the complainant the appurtenances of
 242 such office, and shall cause such judge's finding and decree to be
 243 entered on the records of the Superior Court in the proper judicial
 244 district.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	9-236(a)
Sec. 2	<i>from passage</i>	9-254

Sec. 3	<i>from passage</i>	9-310
Sec. 4	<i>from passage</i>	9-316
Sec. 5	<i>from passage</i>	9-318
Sec. 6	<i>from passage</i>	9-319
Sec. 7	<i>from passage</i>	9-320(a)
Sec. 8	<i>from passage</i>	9-325
Sec. 9	<i>from passage</i>	9-369c(a)
Sec. 10	<i>from passage</i>	9-371
Sec. 11	<i>from passage</i>	9-371b

Statement of Legislative Commissioners:

In Section 1(a)(3), "public restrooms" was changed to "a public restroom" for consistency, and "pursuant to this subdivision" was inserted after "such restroom" for clarity; and in Section 2, "seventy days from" was changed to "seventy days [from] after" for consistency and clarity.

GAE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill, which allows members of the public to use a public restroom in certain public polling places, has no fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sHB 5459*****AN ACT CONCERNING ELECTIONS AND REFERENDA.*****SUMMARY**

Existing law generally prohibits anyone from soliciting support for, or opposition to, a candidate or a ballot question within a 75-foot radius of the outside entrance to a polling place, in a hallway or other approach leading from the entrance, or in a room opening upon any such hallway or approach, with certain exceptions (e.g., parent-teacher organization bake sales).

This bill specifies that this prohibition does not prevent members of the public from using public restrooms in a building where a polling place is located, with one exception. The bill prohibits the public from using a public restroom in a school that is in session and being used as a polling place.

The bill also makes technical changes.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/23/2018)